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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

In the Matter of	)	
ROBERT E. BINDER, D.M.D.	)	Administrative Action
Licensed to Practice Dentistry	)	FINAL DECISION
in the State of New Jersey	)	AND
	)	ORDER

This matter was opened to the New Jersey State Board of Dentistry ("Board") by a Uniform Penalty Letter issued on September 22, 1992 in regard to AdLog #92-617 alleging that Robert E. Binder, D.M.D. violated N.J.A.C. 13:30-8.4(g) in that he failed to include his New Jersey specialty permit number in an advertisement. On or about October 19, 1992, Dr. Binder filed a letter response to the Uniform Penalty Letter and requested a hearing on the allegations.

A hearing was held before the Board on February 3, 1993. Deputy Attorney General Anne Marie Kelly appeared on behalf of the complainant, and Dr. Binder appeared pro se.

The following exhibit was admitted into evidence by D.A.G. Kelly:

S-1 Copy of a page from the Suburban Essex Telephone Book for Springfield-Summit including Orange Area Yellow Pages (page 142).

Dr. Binder testified on his own behalf in defense of the allegations. He brought to the hearing three telephone books for

the Suburban Essex Area including Orange Area, Montclair Area, and Summit Area. The Montclair and Summit directories included Dr. Binder's specialty permit number. The Orange Area Yellow Pages directory which was the subject of the within Uniform Penalty Letter did not include the specialty permit number. Dr. Binder testified that he directed the telephone company to include his specialty permit number in all listings. He argued that it would make no sense and he had no incentive to request the telephone company to include the specialty permit number in some directories and not in others. Unfortunately, Dr. Binder also testified that his order for advertisements in the yellow pages were placed by telephone with representatives of the telephone company, and he did not receive a separate statement. The bill for directory listings appears only on his monthly telephone bill and does not set forth the text of the advertisement.

After hearing both D.A.G. Kelly and Dr. Binder, the Board conducted its deliberations in Executive Session on February 3, 1992. On consideration of the record herein, the Board finds that Dr. Binder had acted responsibly in directing the telephone company to include his New Jersey specialty permit number in his directory advertisements. The Board found Dr. Binder to be a credible witness and believed that it was his intent to fully comply with the Board's advertising regulations. The Board finds that the failure to print Dr. Binder's specialty permit number in

the Suburban-Essex Orange Area Yellow Pages represented an error by the telephone company and that Dr. Binder should not be held responsible for an error which was beyond his control to correct.

Accordingly, for all of the foregoing reasons and for good cause shown;

IT IS ON THIS 12<sup>th</sup> DAY OF FEBRUARY, 1993,

ORDERED that the Uniform Penalty Letter issued to Robert E. Binder, D.M.D. on September 22, 1992 in regard to AdLog #92-617 is hereby rescinded.

A handwritten signature in dark ink, appearing to read "Marvin A. Gross", is written over a horizontal line.

MARVIN A. GROSS, D.D.S.  
VICE-PRESIDENT  
STATE BOARD OF DENTISTRY